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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

JOSE URRUTIA, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

THE ECONOMIST NEWSPAPER NA, INC.

Defendant.

**DEFENDANT’S RESPONSE TO
PLAINTIFF’S NOTICE OF
SUPPLEMENTAL AUTHORITY**

Case No. 2:23-cv-00878

The Honorable Howard C. Nielson, Jr.

Pursuant to DUCivR 7-1(c)(2), The Economist Newspaper NA, Inc. (“TEN” or “Defendant”) submits its response to Plaintiff Jose Urrutia’s Notice of Supplemental Authority concerning *Arnstein et. al. v. Sundance Holdings Group, L.L.C.*, 2:24-cv-0344-RJS-DAO, 2024 WL 4882857 (D. Utah Nov. 25, 2025) (Dkt. No. 29) (the “Notice”).

Plaintiff’s Notice vastly overstates the import of the *Arnstein* decision to the claims and defenses in this case. Plaintiff contends that *Arnstein* “considered and rejected *all of the same* arguments raised by Defendant in its pending motion to dismiss.” Notice at 2 (emphasis added).

But a simple review of Defendant’s Motion to Dismiss, Dkt. No. 21 (the “Motion”), belies Plaintiff’s sweeping conclusion. Notwithstanding Plaintiff’s claims, *Arnstein* does not dictate the outcome here.

As an initial matter, *Arnstein* does not even touch the majority of the grounds on which Defendant has moved for dismissal. **First**, *Arnstein* does not address Plaintiff’s lack of Article III standing because he has only alleged a statutory harm without a common law analogue. *See* Mot. at 5-8. **Second**, *Arnstein*, unlike TEN’s Motion to Dismiss, does not deal with the requirement under the Notice of Intent to Sell Nonpublic Personal Information Act, Utah Code Ann. § 13-37-101, *et seq.* (“NISNPIA”) that a business must be domiciled in Utah—which TEN is not—to be subject to the law. *See* Mot. at 11-12. **Third**, the plaintiff in *Arnstein*, unlike this case, had not agreed to mandatory individual arbitration of his disputes with defendant.

Even where overlap exists, it is largely superficial. While defendants in both cases raise whether the respective plaintiff has sufficiently pled “disclosure” of personal information under the NISNPIA, each defendant does so differently. In *Arnstein*, the defendant argued that plaintiffs had failed to plead facts specifically connecting their information to any alleged disclosures. Here, however, TEN rebuts the sufficiency of Plaintiff’s “disclosure” allegations through Plaintiff’s failure to identify with specificity any third-parties to whom information was *actually* disclosed. *See* Mot. at 12-13. As such, the *Arnstein* decision on disclosure has no relevance to this action. Finally, to the extent the *Arnstein* court discusses Rule 23 in the context of the NISNPIA’s class action bar, its decision is not binding upon this Court.

In short, Plaintiff’s conclusory allegations of a NISNPIA violation fail to state claims for reasons not addressed *Arnstein* and that decision is largely of no relevance here.

Dated: December 20, 2024

Respectfully submitted,

/s/ Maryann Bauhs

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